IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 870 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DILIPBHAI CHOTABHAI DESAI

Versus

MADHUSUDAN RAMJIBHAI BHAGAT

Appearance:

1. Civil Revision Application No. 870 of 2001

MR JIGAR P RAVAL for Petitioner No. 1

MR NILESH M SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 22/10/2001

ORAL JUDGEMENT

1. Rule. Mr.Nilesh M. Shah, learned Counsel for the respondent waives service of rule.

2. In a summary suit, the petitioner was granted leave to defend and was ordered to file his written statement on or before 15-11-2000. The time for submitting the written statement was extended from time to time till 18-4-2001. On 24-4-2001, the petitioner gave an application stating that the petitioner had inadvertently failed to submit his written statement earlier. He presented the written statement and prayed that it might be taken on record. The learned Judge, however, has dismissed the said application. In the circumstances, the learned Judge could have granted the prayer after awarding costs to the respondent, in view of the fact that the petitioner was granted unconditional leave to defend. The impugned order is, therefore, set aside. The prayer in the application below Ex.15 is granted. The petitioner is permitted to file his written statement on condition that the petitioner pays Rs.1,000/- as costs to the respondent. The petitioner shall file the written statement and deposit the said amount in the trial Court within two weeks from the date of receipt of the order and on the amount being deposited, the same shall be paid to the respondent irrespective of the result of the suit. Rule made absolute. No order as to costs.

22-10-2001 (M.C.Patel, J.)

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